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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,928	08/24/2001	Henri Derk Bijsterbosch	C3890(C)	1577

201 7590 10/01/2004

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER	
MRUK, BRIAN P	

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/869,928	BIJSTERBOSCH, HENRI DERK	
	Examiner	Art Unit	
	Brian P Mruk	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 July 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,10 and 11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,10 and 11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7-16-04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed July 16, 2004. Applicant has amended claims 1-3 and 6-7. Claims 8-9 have been cancelled. New claims 10-11 have been added. Currently, claims 1-7 and 10-11 remain pending in the application.

2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 20040310.

3. The objection of the specification for not containing an abstract of the disclosure is withdrawn in view of applicant's newly submitted abstract of the disclosure.

4. The objection of claims 8-9 is withdrawn in view of applicant's cancellation of instant claims 8-9.

5. The rejection of claims 1-9 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendments and remarks.

6. The rejection of claims 1-7 under 35 U.S.C. 102(e) as being anticipated by Leupin et al, U.S. Patent No. 6,384,011, is maintained for the reasons of record.

7. The rejection of claims 1-9 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 of U.S. Patent No. 6,288,022, claims 1-17 of U.S. Patent No. 6,248,710, claims 1-43 of U.S. Patent No. 6,506,220, claims 1-7 of U.S. Patent No. 6,455,489, claims 1-10 of U.S. Patent No. 6,517,588, claims 1-8 of U.S. Patent No. 6,358,903, claims 1-14 of U.S. Patent No. 6,562,771, and claims 1-18 of U.S. Patent No. 6,475,980, is withdrawn in view of applicant's timely filed terminal disclaimers.

8. The rejection of claims 1-7 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/239,967 is maintained for the reasons of record.

9. The rejection of claims 1-7 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 10/225,863 is maintained for the reasons of record.

10. The rejection of claims 1-7 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application No. 10/225,864 is maintained for the reasons of record.

NEW GROUNDS OF REJECTION

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Leupin et al, U.S. Patent No. 6,384,011.

Leupin et al, U.S. Patent No. 6,384,011, discloses a laundry detergent composition comprising 0.1-5% by weight of a hydrophobically modified cellulose material (see col. 4, line 26-col. 5, line 65), 1-80% by weight of a detersive surfactant, such as a combination of anionic and nonionic surfactants (see col. 6, lines 7-65), 0.1-80% by weight of a builder, such as silicates and aluminosilicates (see col. 7, line 56-col. 8, line 30), perfumes (see col. 8, lines 31-43), and 5-12% by weight of water (see col. 12, lines 25-32), per the requirements of the instant claims. It is further taught by Leupin et al that the composition is used in a method to treat fabrics to impart fabric appearance benefits (see col. 12, lines 59-67). Specifically, note Examples 1-6. Therefore, instant claims 10-11 are anticipated by Leupin et al, U.S. Patent No. 6,384,011.

Double Patenting

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 10-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/239,967. Although the conflicting claims are not identical, they are not patentably distinct from each other because copending Application No. 10/239,967 claims a similar composition and method for treating fabrics with a laundry treatment composition comprising a Beta$_{1-4}$ polysaccharide and a surfactant (see claims 1-17 of copending Application No. 10/239,967), as required in instant claims 10-11. Therefore, instant claims 10-11 are an obvious formulation in view of claims 1-17 of copending Application No. 10/239,967.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

15. Claims 10-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 10/225,863. Although the conflicting claims are not identical, they are not patentably distinct from each other because copending Application No. 10/225,863 claims a similar composition and method for treating fabrics with a laundry treatment composition comprising a Beta$_{1-4}$ polysaccharide and a surfactant (see claims 1-21 of copending Application No. 10/225,863), as required in instant claims 10-11. Therefore, instant claims 10-11 are an obvious formulation in view of claims 1-21 of copending Application No. 10/225,863.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

16. Claims 10-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application No. 10/225,864. Although the conflicting claims are not identical, they are not patentably distinct from each other because copending Application No. 10/225,864 claims a similar composition and method for treating fabrics with a laundry treatment composition comprising a Beta$_{1-4}$ polysaccharide and a surfactant (see claims 1-31 of copending Application No. 10/225,864), as required in instant claims 10-11. Therefore, instant claims 10-11 are an obvious formulation in view of claims 1-31 of copending Application No. 10/225,864.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

17. Applicant's arguments filed July 16, 2004 have been fully considered but they are not persuasive.

Applicant argues that Leupin et al, U.S. Patent No. 6,384,011, does not teach or suggest in general a polysaccharide gum with a specific structure having a weight average molecular weight of 250,000 or less, as required in the instant claims. However, the examiner respectfully disagrees. Specifically, Leupin et al clearly discloses cellulosic based polymers and oligomers with a molecular weight of 5,000-2,000,000. It is further noted by the examiner that cellulose contains the required Beta-1,4 linkages, and that the cellulose polymers of Leupin are modified, per the requirements of the instant invention. Therefore, the examiner maintains that Leupin et al clearly teaches polysaccharides having Beta-1,4 linkages and molecular weights below 250,000, per the requirements of the instant invention.

The examiner notes that applicant has not provided terminal disclaimers over copending Application Nos. 10/239,967, 10/225,863, and 10/225,864. It is noted by the examiner that these applications have not issued as U.S. patents, and thus maintains that the instant claims are still provisionally rejected over these applications. However, the examiner agrees with applicant in that if these copending applications do not issue

as U.S. patents at the time allowable subject matter is found in the instant application, that these provisional rejections will be removed, per the requirements of **MPEP 804**.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone

number for the organization where this application or proceeding is assigned is (703) 872-9306.

BPM
Brian Mruk
September 29, 2004

Brian P. Mruk
Brian P. Mruk
Primary Examiner
Tech Center 1700